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JOHN CLIFTON ELSTEAD  
Attorney at Law  
4900 Hopyard Road, Suite 240  
Pleasanton, California 94566  
Telephone: (510) 463-2080

HUB LAW OFFICES  
Ford Greene, Esquire  
California Bar No. 107601  
711 Sir Francis Drake Boulevard  
San Anselmo, California 94960-1949  
Telephone: (415) 258-0360

Attorneys for Plaintiffs  
VICKI J. AZNARAN and  
RICHARD N. AZNARAN

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U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIF.

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SEP 21 1992

HUB LAW OFFICES

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and RICHARD N. AZNARAN,

Plaintiffs,

vs.

CHURCH OF SCIENTOLOGY OF CALIFORNIA, et al.,

Defendants.

AND RELATED COUNTER CLAIM

No. CV-88-1786-JMI (Ex)

PLAINTIFFS' EX PARTE APPLICATION FOR COURT ORDER THAT CLERK MAINTAIN POSSESSION OF FILE PENDING DETERMINATION OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF ORDER TRANSFERRING CASE TO NORTHERN DISTRICT OF TEXAS; DECLARATION OF FORD GREENE, MEMORANDUM IN SUPPORT THEREOF

Date: To Be Determined  
Time: To Be determined  
Ctirm: Hon. James M. Ideman

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that plaintiffs Vicki J. Aznaran and Richard N. Aznaran hereby apply to the Court for an Order to the Clerk to maintain possession of the file in this case and not to transfer physical possession of said file until the Court has an opportunity to rule on Plaintiffs' Motion for Reconsideration of

1 Order Transferring Venue to the Northern District of Texas.

2 The ground for this application is that on September 11,  
3 1992, Plaintiff's filed said motion herein setting a hearing date  
4 for October 5, 1992. In said motion plaintiffs have set forth  
5 important procedural and substantive grounds for reconsideration  
6 of said order - which is tantamount to a dismissal of their case -  
7 and that if the clerk transfers the file in this case to Texas the  
8 Court will lose jurisdiction to reconsider its Order.

9 This application is based on Local Rule 7.18, this notice,  
10 the attached memorandum of points and authorities, the declaration  
11 of Ford Greene, and all the pleadings and papers on file in this  
12 action.

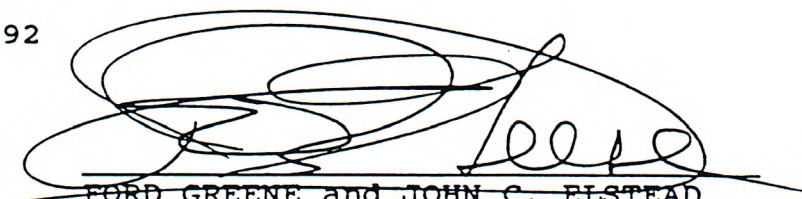
13 Plaintiff's counsel has notified defendants' counsel of the  
14 filing of this ex parte application.

15

16 DATED: September 12, 1992

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FORD GREENE and JOHN C. ELSTEAD  
Attorneys for Plaintiffs  
VICKI J. AZNARAN and RICHARD N.  
AZNARAN

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 Local Rule 7.18 of the Central District permits the filing of  
3 applications of ex parte orders. Plaintiffs accordingly file this  
4 application seeking an Order - and/or interim stay of the Court's  
5 August 28, 1992 Order transferring this case to the Northern  
6 District of Texas - that the clerk maintain possession of the file  
7 in this case and not transfer the same to the Northern District of  
8 Texas pursuant to this Court's order entered on August 28, 1992  
9 until the Court rules on plaintiff's motion for reconsideration  
10 filed on September 11, 1992.

11 At this time this Court maintains jurisdiction over the  
12 instant case.

13 At the point that a motion to transfer has been granted and  
14 the file lodged with the transferee district (Northern District of  
15 Texas), the transferor court, this Court (Central District of  
16 California), will lose jurisdiction to act. Starnes v. McGuire  
17 (D.C. Cir. 1074) 512 F.2d 918; Robbins v. Pocket Beverage Co.  
18 (7th Cir. 1985) 779 F.2d 351. The file in the case at bar has not  
19 yet been transferred to the Northern District of Texas, although  
20 it could be transferred at any time. (Declaration of Ford Greene)

21 Since this Court maintains jurisdiction, it should exercise  
22 its jurisdiction and order its August 28, 1992 order stayed  
23 pending further order of this Court so that it can address the  
24 issues raised in plaintiffs' motion for reconsideration.

25 Plaintiffs have been severely prejudiced by the Court's order  
26 transferring the case to Texas because, for the reasons set forth  
27 in their motion for reconsideration, said transfer order is  
28 tantamount to a dismissal of plaintiffs' case. In this regard,

1 plaintiffs motion for reconsideration of the transfer order is  
2 incorporated herein in its entirety.

3 Unless the Court stays the execution of its order  
4 transferring the case to Texas, plaintiffs have no assurance that  
5 the Court will review, consider and address plaintiffs' grounds  
6 for reconsideration which, again, is the functional equivalent of  
7 the dismissal of their case.

8 Therefore, plaintiffs request that this Court issue an order  
9 staying the transfer of the file in the case at bar until such  
10 time as the Court decides plaintiffs' motion for reconsideration.

11 It is well settled that a United States District Court has  
12 broad power to issue a stay of all or part of the proceedings  
13 before it. Bechtel v. Local 215, Laborers' Intern. Union of  
14 Northern America (3rd. Cir. 1976) 544 F.2d 1207, 1215; See also,  
15 City of New York v. Pierce (S.D.N.Y. 1985) 609 F.2d Supp. 798, 799  
16 ("A district court may stay an action by virtue of its own  
17 inherent power over its own process."); Wedgeworth v. Fibreboard  
18 (5th Cir. 1983) (" . . . the general discretionary power of the  
19 district courts to stay proceedings [is based upon] the interests  
20 of justice and the control of their dockets."); Amersham Intern.  
21 PLC v. Corning Glass Works (E.D. Mich. 1984) 618 F.Supp. 507, 509  
22 ("A motion to stay is directed to the sound discretion of the  
23 court, with authority to grant or deny stemming from its inherent  
24 power to control its docket.")

25 "The determination by a district judge in granting or denying  
26 a motion to stay proceedings calls for an exercise of discretion  
27 to balance the various factors relevant to the expeditious and  
28 comprehensive disposition of the causes of action on the court's

1 docket." United States v. Georgia Pac. Corp. (4th Cir. 1977) 562  
2 F.2d 294, 296. Thus, the "power to stay proceedings is incidental  
3 to the power inherent in every court to schedule disposition of  
4 the cases on its docket so as to promote fair and efficient  
5 adjudication." Gold v. Johns-Manville Sales Corp. (3rd Cir. 1983)  
6 723 F.2d 1068.

7 The party seeking a stay "must justify it by clear and  
8 convincing circumstances outweighing potential harm to the party  
9 against whom it is operative." Willford v. Armstrong World  
10 Industries, Inc. (4th Cir. 1983) 715 F.2d 124, 127. See also,  
11 City of New York v. Pierce, supra, 495 F.Supp. at 447. (In  
12 deciding whether or not to issue a stay, the court "must evaluate  
13 possible damage, hardship and inequities to the parties to the  
14 lawsuit . . .")

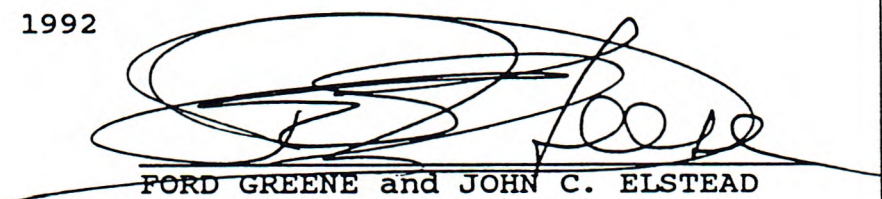
15 Defendants would not suffer any prejudice from an order of  
16 this Court staying the transfer of the file to the Northern  
17 District of Texas. No trial date has been set. Plaintiffs, to  
18 the contrary, have strong grounds that the Court erred in issuing  
19 the transfer order because (1) the court was without power to do  
20 so because defendants' motion to recuse was pending before the  
21 order issued, and (2) the transfer order is tantamount to a  
22 dismissal of plaintiffs' lawsuit.

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Therefore, based upon the foregoing and in order to insure that this Court gives plaintiffs every consideration regarding the prejudice that its transfer order has engendered, the Court should stay transfer of the file pending further order of the Court.

DATED: September 12, 1992



FORD GREENE and JOHN C. ELSTEAD  
Attorneys for Plaintiffs  
VICKI J. AZNARAN and RICHARD N.  
AZNARAN

DECLARATION OF FORD GREENE

FORD GREENE declares:

1. I am an attorney licensed to practice law in the Courts of the State of California and am the attorney of record for Vicki J. Aznaran and Richard N. Aznaran, plaintiffs herein.

2. On September 11, 1992 I called the clerk to the Honorable James M. Ideman, Judy Hoyer, and inquired whether the file in the case had been transferred to the Northern District of Texas. Ms. Hoyer referred me to file clerk Janice Woods. Ms. Woods advised me that the court still maintained possession of the file, but without an order from the Court staying the transfer of the file, it would be sent to Texas as soon as her office completed the conditions precedent to executing such transfer. I told her that a motion for reconsideration had been filed with hearing date set for 10/5/92.

3. Plaintiffs have been prejudiced by the Court's order transferring the case to Texas. Such prejudice is spelled out in the motion for reconsideration which is incorporated herein by reference. Plaintiffs will be further prejudiced if this Court fails to hear plaintiffs' motion for reconsideration.

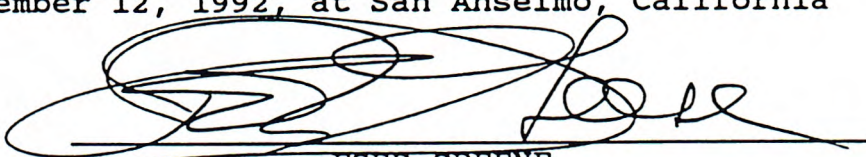
4. Defendants will suffer no prejudice in the event this Court were to issue a stay of the transfer of the file pending its consideration of plaintiffs' motion for reconsideration of its order transferring the case to the Northern District of Texas.

5. On September 11, 1992, I telecopied a letter to Laurie J. Bartilson at the offices of Bowles and Moxon advising her that I intended to submit the herein ex parte application before the close of business on September 14, 1992. On September 12, 1992, I

1 telecopied to Ms. Bartilson a copy of this ex parte application.

2 Under penalty of perjury pursuant to the laws of the United  
3 States I hereby declare that the foregoing is true and correct  
4 according to my first-hand knowledge, except those matters stated  
5 to be on information and belief, and as to those matters, I  
6 believe them to be true.

7 Executed on September 12, 1992, at San Anselmo, California

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10 FORD GREENE

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PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following

documents:        PLAINTIFFS' EX PARTE APPLICATION FOR COURT ORDER THAT CLERK MAINTAIN POSSESSION OF FILE PENDING DETERMINATION OF PLAINTIFFS' MOTION FOR RECONSIDERATION OF ORDER TRANSFERRING CASE TO THE NORTHERN DISTRICT OF TEXAS; DECLARATION OF FORD GREENE, MEMORANDUM OF SUPPORT THEREOF; PROPOSED ORDER

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at

San Anselmo, California:                SEE SERVICE LIST

- (By Mail)                I caused such envelope with postage thereon fully prepaid to be placed in the united States Mail at San Anselmo, California.
- (Personal Service)        I caused such envelope to be delivered by hand to the offices of the addressee.
- (State)                    I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (Federal)                  I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DATED:        September 12, 1992



Aznaran v. Scientology: Service List

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JOHN CLIFTON ELSTEAD  
Attorney at Law  
4900 Hopyard Road, Suite 240  
Pleasanton, California 94566

Earle C. Cooley  
COOLEY, MANION, MOORE, & JONES, P.C.  
21 Custom House Street  
Boston, Massachusetts 02110

Laurie J. Bartilson  
BOWLES & MOXON  
6255 Sunset Boulevard, Suite 2000  
Los Angeles, California 90028

Also By Telecopier

James H. Berry, Jr.  
BERRY and CAHALAN  
2049 Century Park East  
Los Angeles, California 90067